

REMARKS

Reconsideration of the above identified patent application is hereby respectfully requested in view of the foregoing amendments and following remarks. Claims 5, 9, and 10 have been canceled and claims 1, 6, 11, 12, 14, and 21 have been amended. Claims 1-4, 6-8, and 11-21 remain in the case.

The applicant appreciated the thoroughness of the review by Examiner Alfred J Wujciak.

A petition and Fee for Extension of Time under 37 CFR 1.136(a) and payment thereof for a two-month extension is attached hereto.

1. That this is the first Office Action is noted.
2. The references cited by the Examiner are deemed to be sufficient.
3. Claims 4 and 9-18 were rejected under 35 USC 112 second paragraph because a "paper plate" was not believed to have been positively cited in claim 1.

The basis for this rejection is not understood. In the preamble of claim 1, "a paper plate" is positively recited as an element (the only element) of the environment with which the invention is to be used (practiced). Accordingly, any future use, attachment, or other activity of the instant beverage holder that also recites, "said paper plate" would well appear to positively refer back to the previously cited paper plate.

The first time this element (paper plate) is recited, the indefinite article "a" is used to properly introduce it. Following its initial introduction, the definite article "said" is used and such use would appear to positively refer to this element.

The paper plate is not required to be sold as part of the invention. The instant invention is adapted for use with paper plates that have been purchased separately. Accordingly, introduction of the paper plate in the preamble as an element of the environment is believed to be proper. Introduction of it as an element in the body of the claim is believed to be unnecessary and improper.

Accordingly, this rejection is believed to be overcome and reconsideration is respectfully requested.

If the Examiner should still continue to find cause for rejection with regard to the antecedent basis of "paper plate", the undersigned respectfully requests a more detailed explanation as to the basis of the rejection and, if possible, guidance as to what the Examiner is looking for in the claim language.

As the limitations of previous claim 9 have been included in instant claim 1, "rim" is now introduced in amended claim 1 using the indefinite article, "a". Thank you for the careful reading by the Examiner that resulting in detection of this error.

Reconsideration is respectfully requested of all rejections made under 35 USC 112.

One additional amendment is noted. The recitation from now canceled claim 5, "to be attached to" has been changed in claim 1 to recite, "for attaching to" to more positively recite the claimed limitations.

The remaining amendments made to dependent claims 6, 11, 12, and 14 correct errors in antecedent basis that arose due to a canceling of claims 5, 9, and 10.

4-5. The rejections, as applied under 35 USC 102 and 103, are noted. Please see Office Action item 6 below.

6. The applicant appreciates the indication of allowable subject matter. The limitations of now canceled claim 10 and intervening claims 9 and 5 have been combined with claim 1. Accordingly, instant base claim 1 is believed to be in condition of allowance and reconsideration thereof is respectfully requested.

Remaining claims 2-4, 6-8, and 11-20 depend from claim 1 and are therefore also believed to be in condition of allowance. Reconsideration is respectfully requested.

Claim 21 has been amended to include as a limitation thereof the same structural limitations as are recited in claim 1. Accordingly, amended claim 21 is also believed to be in condition of allowance and reconsideration is respectfully requested.

7. The conclusion is noted. The prior art made of record and not relied upon that is considered pertinent to the applicant's disclosure is deemed no more relevant than the applied references. Contact information is noted and appreciated.

As all remaining claims 1-4, 6-8, and 11-21 appear to be in condition of allowance, reconsideration thereof is respectfully requested, and a notice of allowance is courteously urged at the earliest time.

Please continue to direct all correspondence to the correspondence address and telephone as shown below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Risto A. Rinne, Jr.', followed by the date '8/3/5'.

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